

the ordinances of a political subdivision thereof that regulate door-to-door sales, except to the extent that such laws or ordinances, if they permit door-to-door selling, are directly inconsistent with the provisions of this part. Such laws or ordinances which do not accord the buyer, with respect to the particular transaction, a right to cancel a door-to-door sale that is substantially the same or greater than that provided in this part, which permit the imposition of any fee or penalty on the buyer for the exercise of such right, or which do not provide for giving the buyer a notice of the right to cancel the transaction in substantially the same form and manner provided for in this part, are among those which will be considered directly inconsistent.

[60 FR 54187, Oct. 20, 1995]

§ 429.3 Exemptions.

(a) The requirements of this part do not apply for sellers of automobiles, vans, trucks or other motor vehicles sold at auctions, tent sales or other temporary places of business, provided that the seller is a seller of vehicles with a permanent place of business.

(b) The requirements of this part do not apply for sellers of arts or crafts sold at fairs or similar places.

[60 FR 54187, Oct. 20, 1995]

PART 432—POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

Sec.

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AUTHORITY: 38 Stat. 717, as amended; (15 U.S.C. 41–58).

SOURCE: 39 FR 15387, May 3, 1974, unless otherwise noted.

§ 432.1 Scope.

(a) Except as provided in paragraph (b) of this section, this part shall apply whenever any power output (in watts or otherwise), power band or power frequency response, or distortion capability

or characteristic is represented, either expressly or by implication, in connection with the advertising, sale, or offering for sale, in commerce as “commerce” is defined in the Federal Trade Commission Act, of sound power amplification equipment manufactured or sold for home entertainment purposes, such as for example, radios, record and tape players, radio-phonograph and/or tape combinations, component audio amplifiers and the like.

(b) Representations shall be exempt from this part if all representations of performance characteristics referred to in paragraph (a) of this section clearly and conspicuously disclose a manufacturer’s rated power output and that rated output does not exceed two (2) watts (per channel or total).

(c) It is an unfair method of competition and an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) to violate any applicable provision of this part.

§ 432.2 Required disclosures.

Whenever any direct or indirect representation is made of the power output, power band or power frequency response, or distortion characteristics of sound power amplification equipment, the following disclosures shall be made clearly, conspicuously, and more prominently than any other representations or disclosures permitted under this part:

(a) The manufacturer’s rated minimum sine wave continuous average power output, in watts, per channel (if the equipment is designed to amplify two or more channels simultaneously)—

(1) For each load impedance required to be disclosed in paragraph (b) of this section, when measured with resistive load or loads equal to such (nominal) load impedance or impedances, and

(2) Measured with all associated channels fully driven to rated per channel power;

(b) The load impedance or impedances, in Ohms, for which the manufacturer designs the equipment to be used by the consumer;

(c) The manufacturer’s rated power band or power frequency response, in Hertz (Hz), for each rated power output

required to be disclosed in paragraph (a)(1) of this section; and

(d) The manufacturer's rated percentage of maximum total harmonic distortion at any power level from 250 mW to the rated power output, for each such rated power output and its corresponding rated power band or power frequency response.

§ 432.3 Standard test conditions.

For purposes of performing the tests necessary to make the disclosures required under § 432.2 of this part:

(a) The power line voltage shall be 120 volts AC (230 volts when the equipment is made for foreign sale or use, unless a different nameplate rating is permanently affixed to the product by the manufacturer in which event the latter figure would control), RMS, using a sinusoidal wave containing less than 2 percent total harmonic content. In the case of equipment designed for battery operation only, tests shall be made with the battery power supply for which the particular equipment is designed and such test voltage must be disclosed under the required disclosures of § 432.2 of this part. If capable of both AC and DC battery operation, testing shall be with AC line operation;

(b) The AC power line frequency for domestic equipment shall be 60 Hz and 50 Hz for equipment made for foreign sale or use;

(c) The amplifier shall be preconditioned by simultaneously operating all channels at one-third of rated power output for one hour using a sinusoidal wave at a frequency of 1,000 Hz;

(d) The preconditioning and testing shall be in still air and an ambient temperature of at least 77 °F (25 °C);

(e) Rated power shall be obtainable at all frequencies within the rated power band without exceeding the rated maximum percentage of total harmonic distortion after input signals at said frequencies have been continuously applied at full rated power for not less than five (5) minutes at the amplifier's auxiliary input, or if not provided, at the phono input.

(f) At all times during warm-up and testing, tone loudness-contour and other controls shall be preset for the flattest response.

§ 432.4 Optional disclosures.

Other operating characteristics and technical specifications not required in § 432.2 of this part may be disclosed: *Provided:*

(a) That any other power output is rated by the manufacturer, is expressed in minimum watts per channel, and such power output representation(s) complies with the provisions of § 432.2 of this part; except that if a peak or other instantaneous power rating, such as music power or peak power, is represented under this section, the maximum percentage of total harmonic distortion (see § 432.2(d) of this part) may be disclosed only at such rated output: *And provided further,*

(b) That all disclosures or representations made under this section are less conspicuously, and prominently made than the disclosures required in § 432.2 of this part; and

(c) The rating and testing methods or standards used in determining such representations are disclosed, and well known and generally recognized by the industry at the time the representations or disclosures are made, are neither intended nor likely to deceive or confuse the consumers and are not otherwise likely to frustrate the purpose of this part.

NOTE 1: For the purpose of paragraph (b) of this section, optional disclosures will not be considered less prominent if they are either bold faced or are more than two-thirds the height of the disclosures required by § 432.2.

NOTE 2: Use of the asterisk in effecting any of the disclosures required by § 432.2 and permitted by § 432.4 shall not be deemed conspicuous disclosure.

[39 FR 15387, May 3, 1974; 39 FR 17838, May 21, 1974]

§ 432.5 Prohibited disclosures.

No performance characteristics to which this part applies shall be represented or disclosed if they are not obtainable as represented or disclosed when the equipment is operated by the consumer in the usual and normal manner without the use of extraneous aids.

§ 432.6 Liability for violation.

If the manufacturer or, in the case of foreign made products, the importer or

domestic sales representative of a foreign manufacturer, of any product covered by this part furnishes the information required or permitted under this part, then any other seller of the product shall not be deemed to be in violation of § 432.5 of this part due to his reliance upon or transmittal of the written representations of the manufacturer or importer if such seller has been furnished by the manufacturer, importer, or sales representative a written certification attesting to the accuracy of the representations to which this part applies: *And provided further*, That such seller is without actual knowledge of the violation contained in said written certification.

PART 433—PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Sec.

433.1 Definitions.

433.2 Preservation of consumers' claims and defenses, unfair or deceptive acts or practices.

433.3 Exemption of sellers taking or receiving open end consumer credit contracts before November 1, 1977 from requirements of § 433.2(a).

AUTHORITY: 38 Stat. 717, as amended; (15 U.S.C. 41, *et seq.*)

§ 433.1 Definitions.

(a) *Person*. An individual, corporation, or any other business organization.

(b) *Consumer*. A natural person who seeks or acquires goods or services for personal, family, or household use.

(c) *Creditor*. A person who, in the ordinary course of business, lends purchase money or finances the sale of goods or services to consumers on a deferred payment basis; *Provided*, such person is not acting, for the purposes of a particular transaction, in the capacity of a credit card issuer.

(d) *Purchase money loan*. A cash advance which is received by a consumer in return for a "Finance Charge" within the meaning of the Truth in Lending Act and Regulation Z, which is applied, in whole or substantial part, to a purchase of goods or services from a seller who (1) refers consumers to the creditor or (2) is affiliated with the creditor

by common control, contract, or business arrangement.

(e) *Financing a sale*. Extending credit to a consumer in connection with a "Credit Sale" within the meaning of the Truth in Lending Act and Regulation Z.

(f) *Contract*. Any oral or written agreement, formal or informal, between a creditor and a seller, which contemplates or provides for cooperative or concerted activity in connection with the sale of goods or services to consumers or the financing thereof.

(g) *Business arrangement*. Any understanding, procedure, course of dealing, or arrangement, formal or informal, between a creditor and a seller, in connection with the sale of goods or services to consumers or the financing thereof.

(h) *Credit card issuer*. A person who extends to cardholders the right to use a credit card in connection with purchases of goods or services.

(i) *Consumer credit contract*. Any instrument which evidences or embodies a debt arising from a "Purchase Money Loan" transaction or a "financed sale" as defined in paragraphs (d) and (e) of this section.

(j) *Seller*. A person who, in the ordinary course of business, sells or leases goods or services to consumers.

[40 FR 53506, Nov. 18, 1975]

§ 433.2 Preservation of consumers' claims and defenses, unfair or deceptive acts or practices.

In connection with any sale or lease of goods or services to consumers, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a seller, directly or indirectly, to:

(a) Take or receive a consumer credit contract which fails to contain the following provision in at least ten point, bold face, type:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY